



United States
Department of
Agriculture

Food and
Nutrition
Service

Mountain
Plains
Region

1244 Speer Boulevard
Denver, CO 80204

Reply to
Attn. of: SP 94-C-1

NOV 8 1993

Subject: "Preferred Bidder" State Laws

To: STATE AGENCY DIRECTORS - Colorado ED, Iowa, Kansas, Missouri ED,
(Special Nutrition Programs) Montana OPI, Nebraska ED, North Dakota,
South Dakota, Utah, Wyoming ED

Various States, including ones in the Mountain Plains Region of the Food and Nutrition Service (FNS), have enacted laws which require certain entities (such as the State's own State and local governmental entities, school districts, etc.) to give a special preference to certain types of bids when making the bid selection in the course of procurement actions. These laws typically require the entity soliciting bids to give a specified preference to any bid submitted by a bidder who will use products from the State in supplying the goods or services being procured, and/or who will employ residents of the State while supplying the goods or services being procured.

In 1984 FNS was given an opinion from the USDA Office of General Council (OGC) as to whether such laws are in conflict with federal procurement requirements, especially the requirements for free and open competition. According to OGC such State "Preferred Bidder" laws do not conflict with either departmental and federal procurement provisions, as found in 7 CFR 3015 and OMB Circular A-102, Attachment O, or the decisions of Federal courts in cases touching this issue.

Please call our office if you have questions.

Ann C. Hector

ANN C. HECTOR
Regional Director
Special Nutrition Programs